

179519 SA



***The Public Service Commission  
State of South Carolina***

Charles L.A. Terreni  
Chief Clerk/Administrator  
Phone: (803) 896-5133  
Fax: (803) 896-5246

COMMISSIONERS  
Randy Mitchell, Third District  
*Chairman*  
G. O'Neal Hamilton, Fifth District  
*Vice Chairman*  
John E. "Butch" Howard, First District  
David A. Wright, Second District  
Elizabeth B. "Lib" Fleming, Fourth District  
Mignon L. Clyburn, Sixth District  
C. Robert Moseley, At-Large

Phone: (803) 896-5100  
Fax: (803) 896-5246

May 16, 2006

5/16/06  
ted

**Certified Mail**  
**Return Receipt Requested**

John J. Pringle, Jr., Esquire  
Ellis Lawhorne & Sims, PA  
P.O. Box 2285  
Columbia, SC 29202

RECEIVED  
MAY 16 2006  
PSC SC  
DOCKETING DEPT.

Shannon B. Hudson, Esquire  
Office of Regulatory Staff  
P.O. Box 11263  
Columbia, SC 29211

Margaret M. Fox, Esquire  
McNair Law Firm, P.A.  
P. O. Box 11390  
Columbia, SC 29211

Re: Application of IPC Network Services, Incorporated  
Commission Docket No. 2006-55-C

Dear Jack, Shannon and <sup>Peg</sup>Margaret:

Enclosed please find a proposed order in the above-captioned docket, which is being delivered to you pursuant to the requirements of 26 S.C. Code Ann. Regs. 103-865 (C). As parties of record in this IPC Network case, you have ten (10) days from your receipt of this proposed order to file exceptions, present briefs, and/or file written requests for oral argument to the Commission, if you should desire to do so. If

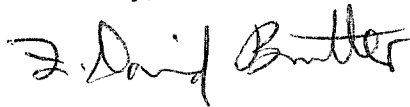
John J. Pringle, Jr., Esquire  
Shannon B. Hudson, Esquire  
Margaret M. Fox, Esquire  
May 16, 2006  
Page 2

---

none of these are received by me within 10 days of your receipt of the proposed order, I will request that the Commission issue its order in this case based upon the record of the formal proceeding and the proposed order.

Thank you in advance for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "F. David Butler". The signature is written in a cursive, flowing style with some loops and flourishes.

F. David Butler  
Hearing Examiner

FDB/dd  
cc: Joseph Melchers, Chief Legal Advisor

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2006-55-C - ORDER NO. 2006-  
MAY 16, 2006

IN RE: Application of IPC Network Services,	) ORDER
Incorporated for a Certificate of Public	) GRANTING
Convenience and Necessity to Provide Resold	) CERTIFICATE,
Local Exchange and Resold Long Distance	) APPROVING MODIFIED
Telecommunications Services and for	) ALTERNATIVE
Flexible Regulation of its Local Exchange	) REGULATION AND
Services and Alternative Regulation of its	) FLEXIBLE
Long Distance Offerings	) REGULATION-
	) PROPOSED ORDER OF
	) THE HEARING
	) EXAMINER

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of IPC Network Services, Incorporated (“IPC” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold local exchange and resold interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2005) and the rules and regulations of the Commission. By its Application, IPC also requests modified alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997, flexible regulation of its local exchange service offerings

pursuant to Order No. 98-165 in Docket No. 1997-467-C, and waiver of certain Commission regulations.

The Commission's Docketing Department instructed IPC to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of IPC and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. IPC complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the South Carolina Telephone Coalition (SCTC). Subsequent to the intervention, IPC and SCTC reached a Stipulation, attached hereto as Order Exhibit 1.

On Friday, May 5, 2006, the parties filed a stipulated settlement, which is attached hereto as Order Exhibit 2. A hearing was convened on May 8, 2006, at 10:00 a.m. in the Commission's Meeting Room, Columbia, South Carolina, before David Butler, Hearing Examiner. IPC was represented by John J. Pringle, Jr., Esquire. The Office of Regulatory Staff (ORS) was represented by Shannon Bowyer Hudson, Esquire.

Marianne Leitch, Senior Vice President of Network Services for the Company, appeared by video conferencing and testified in support of the Application. The record reveals that IPC is incorporated in New York and has registered to transact business in South Carolina as a foreign corporation. According to Ms. Leitch, the company seeks authority to operate as a reseller of point-to-point private line services throughout the state. The private line services are not interconnected to the public switched telephone network at this time. As per the Company's Application, some private lines may be

entirely within an exchange of an incumbent local exchange carrier, or may be interexchange services. Ms. Leitch explained the Company's request for authority, and the record further reveals the Company's services, operations, and marketing procedures. The Company's primary market is business customers.

Ms. Leitch also discussed IPC's technical, financial, and managerial resources to provide the services for which it seeks authority. Ms. Leitch offered that IPC possesses sufficient financial resources to support its operations in South Carolina. With regard to management and technical capabilities, the Company has not been denied a license in any of the states in which it has applied, nor has it had a license revoked in any jurisdiction. The Company's Application and Ms. Leitch's testimony both evidence that IPC's management team has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Ms. Leitch also testified that IPC will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Ms. Leitch offered that approval of IPC's Application would serve the public interest by increasing the level of competition in South Carolina. Ms. Leitch, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs.103-610 and to be allowed to keep the Company's books at its headquarters in New York. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts (USOA). IPC maintains its books in accordance with Generally Accepted Accounting Principles (GAAP). In

addition, the Company requests that it not be required to publish local exchange directories, and therefore requests waiver of 26 S.C. Code Ann. Regs. 103-631.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

### **FINDINGS OF FACT**

1. IPC is incorporated under the laws of the State of New York and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. IPC has no reported record of violations of regulatory laws or regulations in the jurisdictions in which it is currently operating.

3. IPC desires to operate as a provider of resold local and interexchange exchange telecommunications services in South Carolina.

4. We find that IPC possesses the managerial experience and capability to operate as a provider, through resale, of interexchange and local exchange services in South Carolina.

5. We find, based on the financial statements submitted by the Company, that IPC possesses sufficient financial resources to provide the services as described in its Application.

6. We find that the issuance of a Certificate of Public Convenience and Necessity to IPC to operate as a reseller of interexchange and local exchange telecommunications services in South Carolina would be in the best interest of the

citizens of South Carolina by increasing the level of competition in South Carolina, by providing an alternative source for telecommunications services, and by creating incentives for lower prices, more innovative services, and more responsive customer service.

7. IPC has no current plans to maintain offices in South Carolina and requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds IPC's requested waiver reasonable and understands the difficulty presented to IPC should the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Ann. Regs. 103-610 to be in the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable. Additionally we find that a waiver of 26 S.C. Code Ann. Regs. 103-631 is reasonable and in the public interest.

8. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B) (1) (Supp. 2005).

9. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B) (3) (Supp. 2005).

10. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B) (4) (Supp. 2005).

11. The Commission finds that services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B) (2) (Supp. 2005).

12. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280(B)(5) (Supp. 2005).

13. Following execution of a Stipulation with intervenor South Carolina Telephone Coalition (SCTC), the SCTC withdrew its opposition to the Application.

#### **CONCLUSIONS OF LAW**

1. The Commission concludes that IPC possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that IPC will participate in the support of universally available telephone service at affordable rates to the extent that IPC may be required to do so by the Commission.

3. The Commission concludes that IPC will provide services which will meet the service standards of the Commission.

4. The Commission concludes that approval of IPC's Application to provide intrastate telecommunications services within South Carolina will serve the public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.



5. The Commission concludes that the provision of telecommunications service by IPC will not adversely impact the public interest.

6. The Commission concludes that the issuance of the authority to provide intrastate local exchange and interexchange telecommunications services as requested by IPC and as set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to IPC to provide resold intrastate interexchange and local exchange telecommunications services.

8. The Commission adopts a rate design for IPC for its residential interexchange services which includes maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

9. IPC shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. IPC shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE

Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp.2005).

10. The Commission concludes that IPC's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of

\$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

11. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

12. We conclude that IPC's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted as strict compliance with the regulation would cause undue hardship on IPC. We also grant exemption from the policies requiring the use of USOA.

In addition, we grant waiver of 26 S.C. Code Ann. Regs. 103-631 which requires publication of a local telephone directory.

13. The Stipulations between the parties should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to IPC to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission, as well as to provide resold local exchange telecommunications services within the State of South Carolina.

2. The Company's rate designs for its products shall conform to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, IPC shall file its revised tariff and an accompanying price list for any applicable rates within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations, as well as the provisions of the IPC-ORS Stipulation.

4. IPC is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. IPC shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If IPC changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, IPC shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, IPC shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. IPC shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, IPC shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at [www.psc.sc.gov/reference/forms.asp](http://www.psc.sc.gov/reference/forms.asp). The title of this form is "Telecommunications

Company Annual Report.” This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1<sup>st</sup>**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31<sup>st</sup>** of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov), and the appropriate form is entitled “Gross Receipts Form.”

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Pac-West shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at [www.psc.sc.gov/reference/forms.asp](http://www.psc.sc.gov/reference/forms.asp); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, IPC requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2005), which requires that records required by the Commission's Rules and Regulations be maintained in South Carolina. The record reveals that IPC's principal headquarters will be located outside of South Carolina. IPC requests permission to maintain its books and records at its headquarters in its home office. The Commission finds IPC's requested waiver reasonable and understands the difficulty presented to IPC should the waiver not be granted. The Commission therefore grants the requested waiver that IPC be allowed to maintain its books and records at its principal headquarters. However, IPC shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and IPC shall promptly notify the Commission and ORS if the location of its books and records changes.

12. IPC also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (USOA). The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, IPC maintains its book of accounts in accordance with Generally Accepted Accounting Principles (GAAP). GAAP is used extensively by interexchange carriers and other providers. Accordingly, IPC requests an exemption from the USOA requirements. We grant the Company's request for the reasons stated above.

13. Each telecommunications company certified in South Carolina is required to file annually the Intrastate Universal Service Fund (USF) worksheet. This worksheet provides ORS information required to determine each telecommunications company's

liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **August 15<sup>th</sup>** with the Commission and ORS.

14. Should the Company become interconnected to the public switched telephone network, IPC is required to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911” system or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs IPC to contact the appropriate authorities regarding 911 service in the counties and cities where the company will be operating, should the Company become interconnected to the public switched telephone network. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, IPC shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company’s operations as required by the 911 system.



15. The Stipulations between the various parties are hereby approved.

16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

---

Randy Mitchell, Chairman

ATTEST:

---

G. O'Neal Hamilton, Vice-Chairman

(SEAL)